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KACVINSKY LLC			EXAMINER	
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

09/823,459

Applicant(s)

ADAMS ET AL.

Examiner

Toan D. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. In view of the Pre-Brief Conference request filed on 8/07/07, PROSECUTION IS HEREBY REOPENED. A non-final office action is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3, 5-17, 25-26 and 29-34 are rejected under 35 U.S.C. 102(e) as being anticipated by Fichou et al. (US 7,320,034).

For claim 1, Fichou et al. disclose system and method for reserving a virtual connection in an IP network, comprising:

receiving a packet to be routed to a destination (figure 1, reference 24) at an intermediate network node (figure 1, reference 16, col. 3, lines 4-7) configured to performed basic routing services for said packet (col. 3, lines 13-18);

determining whether said packet requires advanced routing services to route said packet to said destination (figure 1, reference 24) which are not included in said basic routing services (col. 3, lines 19-34);

sending said packet from said intermediate network node (figure 1, reference 16) to a host advanced routing server (figure 1, reference 26) configured to perform said advanced routing services (col. 3, lines 24-34); and

routing said packet to said destination (figure 1, reference 32) from at least one of said intermediate node (figure 1, reference 16, col. 3, lines 13-18) and said advanced routing server (figure 1, reference 26, col. 3, lines 24-26).

For claim 2, Fichou et al. disclose wherein said sending is performed over a virtual connection (col. 4 lines 41-44).

For claim 3, Fichou et al. disclose wherein said virtual connection is secure (col. 4, lines 14-21).

For claim 5, Fichou et al. disclose system and method for reserving a virtual connection in an IP network, comprising:

receiving a packet to be routed to a destination (figure 1, reference 24) at an intermediate network node (figure 1, reference 16, col. 3, lines 4-7) configured to perform basic routing service for said packet (col. 3, lines 13-18);

determining whether said packet requires advanced routing services to route said packet to said destination (figure 1, reference 24) which are not included in said basic routing services (col. 3, lines 19-34), with said advanced routing services comprising dynamic routing (figure 3, reference steps 54-66, col. 4, lines 14-40);

sending a request for advanced routing information to a host advanced routing server (figure 1, reference 26) configured to perform said advanced routing services (col. 3, lines 21-34);

receiving said advanced routing information from said hosted advanced routing server (figure 5, col. 5, lines 16-17); and

routing said packet to said destination (figure 1, reference 24) from said intermediate network node using said advanced routing information (col. 3, lines 24-34).

For claim 6, Fichou et al. disclose wherein said sending is performed over a virtual connection (col. 4 lines 41-44).

For claim 7, Fichou et al. disclose wherein said virtual connection is secure (col. 4, lines 14-21).

For claim 8, Fichou et al. disclose system and method for reserving a virtual connection in an IP network, comprising:

receiving a packet to be routed to a destination (figure 1, reference 24) and a request for advanced routing information at a hosted advanced routing server (figure 1,

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reference 26, col. 3, lines 21-34) from an intermediate node (figure 1, reference 16, col. 3, lines 4-7) configured to perform basic routing services for said packet (col. 3, lines 13-18), said hosted advanced routing server (figure 1, reference 26) configured to perform advanced routing services required to route said packet to said destination which are not included in said basic routing services (col. 3, lines 19-34);

determining a packet classification for said packet (col. 4, lines 31-36);

retrieving advanced routing information corresponding to said packet classification (figure 5, col. 5, lines 16-17); and

routing said packet to said destination (figure 1, reference 24) using said advanced routing information (col. 3, lines 24-34).

For claim 9, Fichou et al. disclose wherein said sending is performed over a virtual connection (col. 4 lines 41-44).

For claim 10, Fichou et al. disclose wherein said virtual connection is secure (col. 4, lines 14-21).

For claim 11, Fichou et al. disclose wherein said retrieving comprises retrieving said routing information from a routing table (figure 3, col. 4, lines 14-18).

For claim 12, Fichou et al. disclose system and method for reserving a virtual connection in an IP network, comprising:

receiving a request for advanced routing information for a packet to be routed to a destination at a hosted advanced routing server (figure 1, reference 26, col. 3, lines 21-34) from an intermediate node (figure 1, reference 16, col. 3, lines 4-7) configured to perform basic routing services for said packet (col. 3, lines 13-18), said hosted

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advanced routing server (figure 1, reference 26) configured to perform advanced routing services required to route said packet to said destination which are not included in said basic routing services (col. 3, lines 19-34);

determining a packet classification for said packet (col. 4, lines 31-36);

retrieving advanced routing information corresponding to said packet classification (figure 5, col. 5, lines 16-17); and

sending said advanced routing information to said intermediate node (col. 5, lines 16-17, and col. 5 lines 25-28).

For claim 13, Fichou et al. disclose wherein said sending is performed over a virtual connection (col. 4 lines 41-44).

For claim 14, Fichou et al. disclose wherein said virtual connection is secure (col. 4, lines 14-21).

For claim 15, Fichou et al. disclose wherein said retrieving comprises retrieving said routing information from a routing table (figure 3, col. 4, lines 14-18).

For claim 16, Fichou et al. disclose system and method for reserving a virtual connection in an IP network, comprising:

receiving a request for advanced network service for a packet to be routed to a destination at a hosted advanced routing server (figure 1, reference 26, col. 3, lines 21-34) from an intermediate node over a first virtual connection (figure 1, reference 16, col. 3, lines 4-7), said intermediate node configured to perform basic routing services for said packet (col. 3, lines 13-18), said hosted advanced routing server (figure 1, reference 26) configured to perform advanced routing services requires to route said

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packet to said destination which are not included in said basic routing services (col. 3, lines 19-34);

performing said advanced network service for said packet (col. 3, lines 26-34);

and

sending said packet over a second virtual connection (col. 4, lines 41-45).

For claim 17, Fichou et al. disclose wherein said first and second virtual connection is secure (col. 4, lines 14-21).

For claim 25, Fichou et al. disclose system and method for reserving a virtual connection in an IP network, comprising:

receiving a packet to be routed to a destination (figure 1, reference 24) at an intermediate network node (figure 1, reference 16, col. 3, lines 4-7) configured to performed basic routing services for said packet (col. 3, lines 13-18);

determining whether said packet requires advanced routing services prior to routing said packet to said destination which are not included in said basic routing services (col. 3, lines 19-34),

sending said packet from said intermediate node to an advanced network service provider configured to perform said advanced network service (figure 1, reference 26) (col. 3, lines 24-34); and

routing said packet to said destination from at least one of said intermediate node (figure 1, reference 16, col. 3, lines 13-18) and said advanced network services provider (figure 1, reference 26, col. 3, lines 24-26).



For claim 26, Fichou et al. disclose wherein said sending is performed over a secure virtual connection (col. 4, lines 14-21).

For claim 29, Fichou et al. disclose system and method for reserving a virtual connection in an IP network, comprising:

- a communication medium (figure 1, 14, col. 3, lines 2-7);

- a network node (figure 1, reference 16, col. 3, lines 4-7) configured to perform basic routing services to connect to said communication medium (col. 3, lines 13-18), said network node to receive a packet and determine whether said packet requires advanced routing services or advanced network services not included in said basic routing services (col. 3, lines 19-34);

- a hosted advanced routing server (figure 1, reference 26) to connect to said communication medium, said hosted advanced routing server (figure 1, reference 26) to provide said advanced routing services or advanced network services for said packet prior to said packet being routed to said destination (col. 3, lines 26-34).

For claim 30, Fichou et al. disclose wherein said network node determines whether said packet requires said advanced routing services or advanced network services, said network node to send said packet and a request for such services over said communication medium (col. 3, lines 19-34).

For claim 31, Fichou et al. disclose wherein said hosted advanced routing server receives said packet and request, and processes said packet in accordance with said request (col. 3, lines 19-34).

For claim 32, Fichou et al. disclose wherein said network node determines whether said packet requires said advanced routing services or advanced network services, sends a request for such services over said communication medium, receives information to perform such services from said hosted advanced routing server, and processes said packet using said information (col. 3, lines 19-34).

For claim 33, Fichou et al. disclose wherein said network node establishes a virtual connection to said hosted advanced routing server over said communication medium (col. 4, lines 18-21).

For claim 34, Fichou et al. disclose wherein said virtual connection comprises a secure virtual connection (col. 4, lines 14-21).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 18-24 and 27-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fichou et al. (US 7,320,034) further in view of McDysan et al. (US 7,046,680).

For claims 18-20, Fichou et al. disclose system and method for reserving a virtual connection in an IP network, comprising:

a storage medium (figure 3, reference 50, col. 3, lines 63-67);

said storage medium including stored instructions that, when executed, result in performing routing in a network by receiving a packet to be routed to a destination (figure 1, reference 24) at an intermediate network node (figure 1, reference 16, col. 3, lines 4-7) configured to perform basic routing services for said packet (col. 3, lines 13-18), determining whether said packet requires advanced routing services to route said packet to said destination which are not included in said basic routing services (col. 3, lines 19-34), sending said packet from said intermediate network node (figure 1, reference 16) to a host advanced routing server (figure 1, reference 26) configured to perform said advanced routing services (col. 3, lines 24-34), and routing said packet to said destination from at least one of said intermediate node (figure 1, reference 16, col. 3, lines 13-18) and said advanced routing server (figure 1, reference 26, col. 3, lines 24-26).

Fichou et al. disclose wherein the stored instructions, when executed, further result in sending said packet over a secure virtual connection (col. 4, lines 14-21) as set

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forth in claim 19); wherein the stored instructions, when executed, further result in receiving said packet with advanced routing information, and sending said packet to another network node using said advanced routing information (col. 5, lines 16-18 as set forth in claim 20).

However, Fichou et al. do not expressly disclose executed by a processor. In an analogous art, McDysan et al. disclose a processor (figure 2, reference 42, col. 5, lines 62-63).

One skilled in the art would have recognized the processor, and would have applied McDysan et al.'s processor 42 in Fichou et al.'s reservation server 26. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use McDysan et al.'s network access system including a programmable access device having distributed service control in Fichou et al.'s system and method for reserving a virtual connection in an IP network with the motivation being to provide for service processing (col. 6, lines 15-16).

For claims 21-22, Fichou et al. disclose system and method for reserving a virtual connection in an IP network, comprising:

a storage medium (figure 3, reference 50, col. 3, lines 63-67);

said storage medium including stored instructions that, when executed, result in performing routing in a network by receiving a packet to be routed to a destination (figure 1, reference 24) at an intermediate network node (figure 1, reference 16, col. 3, lines 4-7) configured to perform basic routing services for said packet (col. 3, lines 13-18), determining whether said packet requires advanced routing services to route said

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packet to said destination which are not included in said basic routing services (col. 3, lines 19-34), with said advanced routing services comprising dynamic routing (figure 3, reference steps 54-66, col. 4, lines 14-40), sending a request for advanced routing information to a host advanced routing server (figure 1, reference 26) configured to perform said advanced routing services (col. 3, lines 21-34), receiving said advanced routing information from said hosted advanced routing server (figure 5, col. 5, lines 16-17), and routing said packet to said destination from said intermediate network node using said advanced routing information (col. 3, lines 24-34).

Fichou et al. disclose wherein the stored instructions, when executed, further result in sending and receiving said request and said advanced routing information, respectively, over a secure virtual connection (col. 4, lines 41-45 as set forth in claim 22).

However, Fichou et al. do not expressly disclose executed by a processor. In an analogous art, McDysan et al. disclose a processor (figure 2, reference 42, col. col. 5, lines 62-63).

One skilled in the art would have recognized the processor, and would have applied McDysan et al.'s processor 42 in Fichou et al.'s reservation server 26. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use McDysan et al.'s network access system including a programmable access device having distributed service control in Fichou et al.'s system and method for reserving a virtual connection in an IP network with the motivation being to provide for service processing (col. 6, lines 15-16).

For claims 23-24, Fichou et al. disclose system and method for reserving a virtual connection in an IP network, comprising:

- a storage medium (figure 3, reference 50, col. 3, lines 63-67);

- said storage medium including stored instructions that, when executed, result in performing routing in a network by receiving a packet to be routed to a destination (figure 1, reference 24) and a request for advanced routing information at a hosted advanced routing server (figure 1, reference 26, col. 3, lines 21-34) from an intermediate node (figure 1, reference 16, col. 3, lines 4-7) configured to perform basic routing services for said packet (col. 3, lines 13-18), said hosted advanced routing server (figure 1, reference 26) configured to perform advanced routing services to route said packet to said destination which are not included in said basic routing services (col. 3, lines 19-34), determining a packet classification for said packet (col. 4, lines 31-36), retrieving advanced routing information corresponding to said packet classification (figure 5, col. 5, lines 16-17), and routing said packet to said destination using said advanced routing information (col. 3, lines 24-34).

Fichou et al. disclose wherein the stored instructions, when executed, further result in sending and receiving said request and said advanced routing information, respectively, over a secure virtual connection (col. 4, lines 41-45 as set forth in claim 24).

However, Fichou et al. do not expressly disclose executed by a processor. In an analogous art, McDysan et al. disclose a processor (figure 2, reference 42, col. col. 5, lines 62-63).

One skilled in the art would have recognized the processor, and would have applied McDysan et al.'s processor 42 in Fichou et al.'s reservation server 26.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use McDysan et al.'s network access system including a programmable access device having distributed service control in Fichou et al.'s system and method for reserving a virtual connection in an IP network with the motivation being to provide for service processing (col. 6, lines 15-16).

For claim 27-28, Fichou et al. disclose system and method for reserving a virtual connection in an IP network, comprising:

- a storage medium (figure 3, reference 50, col. 3, lines 63-67);

- said storage medium including stored instructions that, when executed, result in performing advanced network services at an advanced network services provider in a network by receiving a request for an advanced network service for a packet to be routed to a destination over a first virtual connection from an intermediate node configured to perform routing service for said packet server (figure 1, reference 16, col. 3, lines 4-7), said advanced network service not included in said routing services (figure 1, reference 26, col. 3, lines 19-34), performing said advanced network service for said packet prior to routing said packet to said destination (col. 3, lines 26-34), and sending said packet over a second virtual connection (col. 4, lines 41-45).

Fichou et al. disclose wherein the stored instructions, when executed, further result in receiving and sending over a secure virtual connection (col. 4, lines 41-45 as set forth in claim 28).

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However, Fichou et al. do not expressly disclose executed by a processor. In an analogous art, McDysan et al. disclose a processor (figure 2, reference 42, col. col. 5, lines 62-63).

One skilled in the art would have recognized the processor, and would have applied McDysan et al.'s processor 42 in Fichou et al.'s reservation server 26. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use McDysan et al.'s network access system including a programmable access device having distributed service control in Fichou et al.'s system and method for reserving a virtual connection in an IP network with the motivation being to provide for service processing (col. 6, lines 15-16).

#### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1-3 and 5-34 have been considered but are moot in view of the new ground(s) of rejection.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Toan D. Nguyen whose telephone number is 571-272-3153. The examiner can normally be reached on M-F (7:00AM-4:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Huy Vu can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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